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January 15, 2025

Maureen W. Gornik, Acting Clerk of Court  
Eighth Circuit Court of Appeals  
Thomas F. Eagleton U.S. Courthouse  
111 South 10th Street, Room 24.329  
St. Louis, Missouri 63102

Re: *United States v. LaVance Cooper*, No. 24-1998  
(to be argued and submitted to the Honorable Judges Grasz, Stras,  
and Kobes on January 17, 2025)  
Rule 28(j) letter

Dear Ms. Gornik:

In *United States v. Daniels*, --- F.4th ---, No. 22-60596, 2025 WL 33402 (5th Cir. Jan. 6, 2025), the Fifth Circuit reversed the defendant's conviction under 18 U.S.C. § 922(g)(3). Citing its earlier ruling in *United States v. Connelly*, 117 F.4th 269 (5th Cir. 2024), the court stated that "we must once again find § 922(g)(3) unconstitutional as applied to Daniels unless the government can show that Daniels was disarmed for reasons above and beyond habitual or occasional marihuana use." 2025 WL 33402, \*5 (footnote omitted). While "the facts at trial seemed to reveal a defendant who was often intoxicated while transporting weapons," under a jury instruction that the court determined was erroneous, "The jury did not necessarily find that Daniels had even used marihuana 'within a matter of . . . weeks before' his arrest, but only that his use 'occurred recently enough' to indicate Daniels was 'actively engaged' in unlawful use." *Id.* The court stated, "What we do know is that the jury could have found Daniels guilty even while believing that he had not used marihuana for several weeks. This would mean that Daniels was convicted for exactly the type of 'habitual or occasional drug use' that we said, in *Connelly*, could not support an indictment (let alone a conviction). 117 F.4th at 282." *Id.*

Thank you.

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Sincerely,

TIMOTHY T. DUAX  
United States Attorney

By: */s/ Adam J. Vander Stoep*

ADAM J. VANDER STOEP  
Assistant United States Attorney

cc: Mark C. Meyer

[The body of this letter contains 219 words]

#### **CERTIFICATE OF FILING AND SERVICE**

I certify that, on January 15, 2025, I electronically filed the foregoing document with the Clerk for the Eighth Circuit Court of Appeals by using the CM/ECF system, which will send notification of such filing to the parties or attorneys of record.

TIMOTHY T. DUAX  
United States Attorney

By: */s/ RAL*

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Legal Assistant